

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY)
PARTNERS, COUNTRY MUSIC.)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, and BLACK)
ENTERTAINMENT TELEVISION, LLC,)
Plaintiffs,)
vs.) NO. 07-CV-2103
YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)
Defendants.)

THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)
Plaintiffs,)
vs.) NO. 07-CV-3582
YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)
Defendants.)

H I G H L Y C O N F I D E N T I A L
VIDEOTAPED DEPOSITION OF SERGEY BRIN
PALO ALTO, CALIFORNIA
THURSDAY, OCTOBER 15, 2009

JOB NO. 17756

1 OCTOBER 15, 2009

2 12:05 p.m.

3

4 VIDEOTAPED DEPOSITION OF SERGEY BRIN,

5 WILSON, SONSINI, GOODRICH & ROSATI, LLP,

6 601 Page Mill Road, Palo Alto, California

7 pursuant to notice, and before,

8 ANDREA M. IGNACIO HOWARD, CLR, RPR, CRR, CSR

9 License No. 9830.

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DAVID FELDMAN WORLDWIDE, INC.

450 Seventh Avenue - Ste 2803, New York, NY 10123 (212) 705-8585

1 A P P E A R A N C E S:

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3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

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18 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and

19 GOOGLE, INC.:

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21 By: JOHN MANCINI, Esq.

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1 A P P E A R A N C E S (Continued.)

2

3 ALSO PRESENT: Timothy Alger, Deputy General Counsel

4 Adam Barea, Google Inc.

5 Lou Meadows, Videographer.

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1 BRIN, S. - HIGHLY CONFIDENTIAL

2 12:08:56 THE VIDEOGRAPHER: Thank you.

3 12:08:57 Please administer the oath.

4 12:08:57

5 12:08:57 SERGEY BRIN,

6 12:08:57 having been sworn as a witness,

7 12:08:57 testified as follows:

8 12:09:08

9 12:09:08 MR. BASKIN: Ready?

10 12:09:13 THE REPORTER: Yes.

11 12:09:13

12 12:09:15 EXAMINATION BY MR. BASKIN

13 12:09:15 MR. BASKIN: Q. Good afternoon, Mr. Brin.

14 12:09:21 A Good afternoon.

15 12:09:22 Q You are both a founder and currently the

16 12:09:25 president of technology at Google?

17 12:09:27 A That's correct.

18 12:09:27 Q And do you attend most meetings of, I guess,

19 12:09:32 what used to be called the Executive Management Group?

20 12:09:36 A Yes.

21 12:09:36 Q And currently that's called the Operations

22 12:09:38 Committee; is that correct?

23 12:09:39 A It's a slightly different makeup now, but

24 12:09:42 there's significant overlap.

25 12:09:43 Q And you do try to attend most meetings of --

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13:08:33 2 such non-presentations actually.

13:08:36 3 Q Now, I take it, as you sit here now, you

13:08:38 4 don't recall the presentation shown to you in and

13:08:40 5 around the fall -- the spring of 2006 at the GPS that

13:08:45 6 considered Google Video, did you -- do you, sir?

13:08:47 7 MR. MANCINI: Objection; assumes facts; vague

13:08:49 8 and ambiguous.

13:08:49 9 THE WITNESS: Yeah, well, once again, I'm not

13:08:50 10 sure that there was such a presentation, and I don't

13:08:52 11 recall.

13:08:52 12 MR. BASKIN: Well, let me begin, if I can,

13:08:58 13 we'll mark as Exhibit 6...

13:09:20 14 MR. MANCINI: Stu, any sense of when you want

13:09:21 15 to break for lunch? Maybe after this document?

13:09:24 16 MR. BASKIN: Give me about another ten

13:09:26 17 minutes, then we'll break.

13:09:28 18 MR. MANCINI: Okay.

13:09:31 19 (Document marked Brin Exhibit 6

13:09:32 20 for identification.)

13:09:32 21 MR. BASKIN: Q. You can stop after page one,

13:11:10 22 Mr. Brin. I'm not going on to the other pages with

13:11:12 23 you.

13:11:13 24 A Okay. I'm just almost done. Okay.

13:11:38 25 Q Does this document, as Exhibit 6, Mr. Brin,

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13:11:41 2 refresh your recollection that you attended a GPS
13:11:44 3 meeting in the spring of 2006 where the discussion
13:11:46 4 undertaken at that meeting was Google Video's
13:11:49 5 copyright compliance practices and how best to compete
13:11:52 6 with YouTube?

13:11:53 7 MR. MANCINI: Objection; assumes facts, and
13:11:55 8 objection to the characterization of the document.

13:11:56 9 THE WITNESS: Yeah, no, I don't agree with
13:11:58 10 that. There's one bullet here that says that I said
13:12:01 11 something at the last GPS, which may or may not be
13:12:04 12 accurate, but -- but I feel like your characterization
13:12:11 13 of that goes beyond anything suggested here.

13:12:15 14 MR. BASKIN: Q. Well, does this document
13:12:17 15 refresh your recollection that you attended the Google
13:12:20 16 Video GPS in the spring of 2006?

13:12:21 17 A No.

13:12:21 18 MR. MANCINI: Objection; assumes facts.

13:12:23 19 MR. BASKIN: Q. No?

13:12:24 20 A No.

13:12:24 21 Q Do you recall --

13:12:25 22 A I'm not saying that I didn't. I'm just
13:12:26 23 saying no, this doesn't particularly help. I'm not
13:12:29 24 doubting you.

13:12:29 25 Q And as you sit here now, you have no

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13:12:31 2 recollection of attending the -- the Google Video GPS
13:12:33 3 meeting; is that right, Mr. Brin?

13:12:36 4 A That's correct. As I said, these happen at
13:12:39 5 least every week. In fact, the GPS is -- often
13:12:41 6 there's several of them stacked together, so I've
13:12:44 7 attended hundreds.

13:12:46 8 Q Now, you made reference a few minutes ago to
13:12:50 9 paragraph six of Exhibit 6; do you see that, Mr. Brin?

13:12:51 10 A Yeah, I made that in response to your
13:12:52 11 question, because that's the only mention of me.

13:12:54 12 Q Okay. And I take it, again, the Sergey
13:12:57 13 listed in paragraph six of Exhibit 6 is you, is it
13:13:00 14 not, sir?

13:13:00 15 A Well, you'd have to ask David. If I was sent
13:13:02 16 this, I would presume that.

13:13:04 17 Q Now, do you recall at a GPS meeting raising
13:13:13 18 the question, is changing a policy to increase
13:13:17 19 traffic, knowing beforehand that we'll profit from
13:13:24 20 illegal downloads, how we want to conduct our
13:13:27 21 business? Do you recall saying that, Mr. Brin?

13:13:29 22 MR. MANCINI: Objection; assumes facts.

13:13:30 23 THE WITNESS: No. I -- you know, I'd caution
13:13:32 24 you that people in the company often try to
13:13:35 25 characterize something I said, or Larry said, or Eric

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13:13:39 2 said to achieve a particular viewpoint that they have,
13:13:42 3 and it's -- very often mischaracterizes what one of us
13:13:46 4 may have said or takes it out of context, so...

13:13:49 5 MR. BASKIN: Q. And is it your position,
13:13:50 6 Mr. Brin, as you sit here today, that that sentence
13:13:53 7 mischaracterizes what you said?

13:13:55 8 A Yes, if I even said anything, but I -- I
13:13:57 9 would believe that it mischaracterizes it.

13:13:59 10 Q And do you recall at the prior GPS meeting
13:14:05 11 expressing the question of whether it is Googley to
13:14:11 12 change a policy to increase traffic knowing beforehand
13:14:14 13 that we'll profit from illegal downloads? Do you
13:14:17 14 remember saying that, sir?

13:14:18 15 MR. MANCINI: Objection; assumes facts.

13:14:19 16 THE WITNESS: No, I don't. And, furthermore,
13:14:22 17 even if you look at this document, that's a separate
13:14:25 18 sentence here. So that's not attached to anything
13:14:28 19 that I might have said.

13:14:30 20 MR. BASKIN: Q. Do you know the phrase "This
13:14:30 21 is Googley"? What does that mean, Mr. Brin?

13:14:33 22 A I could -- I could infer what it means. I
13:14:37 23 would -- I would assume that this is consistent with
13:14:45 24 Google's beliefs and values.

13:14:48 25 Q And that's, in fact, a concept that you use